



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ET-52
LH

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

June 9, 2003

Diane P. Gerth, Esq.
Leonard, Street and Deinard
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402

Re: F-2003-0405
Surface Transportation Board #AB-156 (Sub No. 23X)
Delaware and Hudson Railway Company -
Abandonment of Trackage Located in Albany, New
York
Hudson River, City of Albany, Albany County
Request for Additional Information

Dear Ms. Gerth:

On May 5, 2003 the Department of State (DOS) received the Delaware and Hudson Railway Company's Environmental and Historic Report pursuant to 49 C.F.R. Part 1105. However, as this proposed activity requires a federal license or permit from the Surface Transportation Board (defined in 15 C.F.R. Section 930.51 as "any required authorization, certification, approval, lease or other form of permission which any Federal agency is empowered to issue to an applicant") and a segment of railway line falls within the boundary of the New York State Coastal Management Program, the activity must be evaluated for consistency with the policies of the New York State Coastal Management Program.

Pursuant to 15 C.F.R. Section 930.57, a completed and Federal Consistency Assessment Form (FCAF) with a signed consistency certification (FCAF Section E) is required from the applicant. (See enclosed.) In addition, pursuant to 15 C.F.R. Section 930.58, additional necessary data and information are required. Such information and data includes the following:

- A detailed description of the proposed activity, its associated facilities, the coastal effects, and comprehensive data and information sufficient to support the applicant's consistency certification. Please provide additional information on the disposition of the trackage and the future use of the former rail right-of-way.
- An evaluation that includes a set of findings relating the coastal effects of the proposed activity and its associated facilities to the relevant enforceable Coastal Management policies. Applicants must demonstrate that the activity will be consistent with the enforceable policies of the management program and will demonstrate adequate consideration of policies which are in the nature of recommendations. The policy statement need only address those policies that are applicable to a proposed activity (i.e. those that generate affirmative responses on the FCAF).

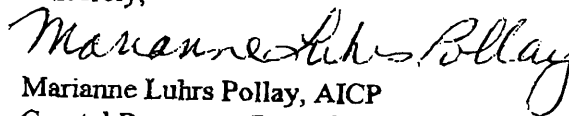
It should be noted that the enforceable policies of the New York State Coastal Management Program include the policies and purposes of all approved Local Waterfront Revitalization Programs, which supercede the general state policies for the coastal municipalities that adopt them. The City of Albany adopted a Local Waterfront Revitalization Program in 1991 which was approved by the New York State Secretary of State in 1992 and concurred with by the U.S. Department of Commerce. *The applicant's consistency narrative should reflect the relevant policies included in Albany's LWRP, and not the state's coastal management policies* (See enclosed).

- Related to City of Albany Coastal Management Policy # 19, #19A, and #19B, the Public Access policies, establishing the former Delaware and Hudson railway corridor as a recreational trail would be an effective way to provide for better access to the City of Albany's waterfront. Has the applicant considered this option? If so, has the applicant been in contact with potential user groups or organizations interested in leading the effort?

If you have any questions or need any other assistance regarding this matter, please contact me at (518) 474-3643 or via e-mail at MPollay@dos.state.ny.us.

When communicating with us regarding this matter, please refer to our file #F-2003-0405.

Sincerely,



Marianne Luhrs Pollay, AICP
Coastal Resources Specialist
Consistency Review and Analysis

CC: NYSDEC/Region 4 - W. Clarke
City of Albany LWRP/D. Casciotti